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BEFORE THE ARIZONA CORPORATION COMMISSION
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2006 JUL -7 P 3:11

AZ CORP COMMISSION
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ARIZONA WATER COMPANY ARIZONA
WATER COMPANY, an Arizona corporation,

Complainant,

vs.

GLOBAL WATER RESOURCES, LLC,
A foreign limited liability company;
GLOBAL WATER RESOURCES, INC.,
A Delaware corporation; GLOBAL WATER
MANAGEMENT, LLC, a
foreign limited liability company; SANTA
CRUZ WATER COMPANY, LLC, an
Arizona limited liability company; PALO
VERDE UTILITIES COMPANY, LLC,
An Arizona limited liability company;
GLOBAL WATER – SANTA CRUZ
WATER COMPANY, an Arizona
Corporation; GLOBAL WATER – PALO
VERDE UTILITIES COMPANY, an
Arizona corporation; JOHN AND JANE
DOES 1-20; ABC ENTITIES I-XX,

Respondents.

DOCKET NO. W-01445A-06-0200
SW-20445A-06-0200
W-20446A-06-0200
W-03576A-06-0200
SW-03575A-06-0200

**STAFF'S STATEMENT ON
EMERGENCY RELIEF**

Arizona Corporation Commission

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I. Introduction.

At the June 15, 2006 procedural conference on this matter, Administrative Law Judge ("ALJ") Nodes asked the parties to brief the issue of whether or not the Complainant should be granted emergency injunctive relief pending the outcome of the Generic Docket on Non-Traditional Financing Arrangements by water utilities and this Complaint proceeding. Staff files this brief statement on the need for emergency relief.

1 Staff does not believe that emergency injunctive relief is necessary at this time. Given the
2 expedited nature of the Generic Docket, the need for emergency injunctive relief by the Commission
3 is diminished. In addition, by allowing discovery to proceed on this Docket, while the Generic
4 Docket is being resolved, this Docket can be decided quickly once the Generic Docket concludes.
5 Even in the absence of injunctive relief, the Respondent Companies will be held fully accountable for
6 their actions if the Commission ultimately finds that those actions were inappropriate or taken
7 without Commission approval, where necessary. The Respondent Companies have elected to
8 proceed at their own risk and continue to do so until a determination is made by the Commission.

9 **II. Discussion.**

10 **A. Expedited handling of the Generic Docket and this Docket diminish the need for**
11 **any emergency relief.**

12 Given the expedited nature of the proceedings, and the status of the current proceedings,
13 injunctive relief at this time is not necessary. The procedural posture of this Docket is rather unique
14 in that the issues surrounding Count II of this Complaint proceeding are also being examined in the
15 Generic Docket on Non-Traditional Financing Techniques. Because of the importance of achieving
16 an expedited resolution of the issues in both Dockets, Staff intends to issue a report and
17 recommendation in the Generic Docket to the Commission in August, 2006, so that it can be heard by
18 the Commissioners at their September Open Meeting

19 Further, it is anticipated that once the Generic Docket is resolved, that this Docket will
20 proceed on an expedited track as well. To ensure that this Docket is resolved in an equally
21 expeditious fashion, the ALJ should consider allowing discovery to proceed while formal
22 proceedings are suspended pending the outcome of the Generic Docket.

23 Allowing discovery to proceed in this Docket during the suspension period would allow the
24 parties to assemble their positions on Counts I and III more fully so that when the Generic Docket
25 concludes, the Complaint proceeding can be resolved in an expeditious fashion. In Staff's opinion,
26 this diminishes the need for emergency relief.

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1 Further, emergency injunctive relief may not make sense at this early stage of the
2 proceedings. One of the allegations in the Complaint Docket is that the Global Entities are acting as
3 public service corporations. Without a more developed record or some sort of finding on this issue, it
4 may be difficult to enjoin the Global holding company from entering into these contracts, since the
5 Commission's powers to undertake this extraordinary sort of action extend to public service
6 corporations only.¹

7 Further, Count II of the Complaint will be informed by the findings of the Generic Docket
8 which is still pending, which may also make extraordinary remedies more difficult to justify at this
9 time. There is no doubt that the coordination agreements accomplish certain objectives that are
10 desirable; however, whether they do so appropriately and with the necessary Commission
11 authorizations, is a matter that will be explored more fully in the pending Dockets.

12 It would appear to make more sense to examine the issues in more detail prior to the
13 Commission entering any sort of injunctive relief in this case.

14 **B. The Global Entities proceed at their own risk.**

15 When the Global Entities elected to enter into "coordination agreements", they essentially
16 chose to proceed at their own risk. The Global Entities could have formally informed the
17 Commission of their intent to proceed in this manner before proceeding to sign up developers or end-
18 users under their so-called "coordination agreements." The Global Entities chose not to do so. They
19 chose to proceed knowing full well that the Commission may find their actions to be inappropriate or
20 without the necessary Commission authorizations. They ultimately must bear the consequences of
21 their actions. The consequences of the Companies actions could be as severe as to affect the validity
22 of the contracts it entered into if the Companies did not have the legal ability to do so in the first
23 place.² In addition, the Commission has the authority to levy fines upon entities that are found to
24 have violated Commission rules and orders, and statutes under which the Commission operates.

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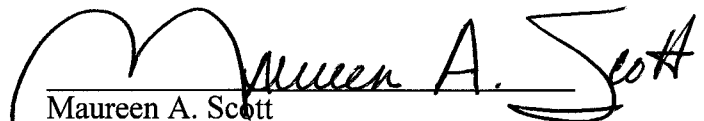
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28 ¹ See, *Williams v. Arizona Corporation Commission*, 430 P.2d 144, 102 Ariz. 382 (1967); Attorney General Opinion 77-150 (R77-57) (July 18, 1977).

² See *Trico Electric Cooperative, Inc. v. Ralston*, 67 Ariz. 358, 196 P.2d 470 (1948).

1 Staff believes that the possible consequences to the Global Entities of proceeding under the
2 current circumstances are sufficiently severe that they will not take any further action without serious
3 consideration.

4 In conclusion, Staff believes that the current status of the proceedings together with the
5 expedited nature of the Generic Docket and other factors weigh against emergency injunctive relief at
6 this time.

7 RESPECTFULLY SUBMITTED this 7th day of July, 2006.

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